102-03758/

LEGISLATIVE ASSEMBLY
PROVINCE OF ALBERTA

Office of the Ombudsman

November, 2001

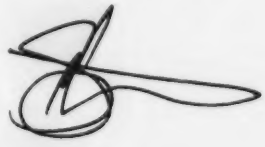
The Honourable Ken Kowalski
Speaker of the Legislative Assembly
325 Legislature Building
Edmonton, Alberta
T5K 2B6

Mr. Speaker:

The Office of the Ombudsman is pleased to present its 34th Annual Report to you and, through you, to the Legislative Assembly.

This Report has been prepared in accordance with section 27(1) of the *Ombudsman Act* and covers the activities of the Office of the Ombudsman for the period April 1, 2000 through March 31, 2001.

Respectfully,



G.G. Scott Sutton
Ombudsman

OFFICE OF THE OMBUDSMAN
Province of Alberta

Vision:

The Office of the Ombudsman is the recognized standard of independent review for administrative fairness.

Mission:

The Office of the Ombudsman promotes fairness in public administration within the Government of Alberta.

G.G. SCOTT SUTTON, *Ombudsman*

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I am pleased at what I see as a genuine willingness by departments to right the wrongs brought to their attention in a proactive and constructive manner.

I am pleased to present my third annual report, the 34th Annual Report of the Alberta Office of the Ombudsman. The past year has seen advancement in both the knowledge and workings of the Office of the Ombudsman. As the watchdog of government administration, the Ombudsman provides an independent third-party review and investigation for individuals who believe they have been treated unjustly due to error or administrative unfairness by Alberta government departments, boards, agencies or commissions. For concerns that are brought to the attention of the Ombudsman, but are outside the jurisdiction of the Ombudsman, the Office serves as an information resource and referral centre. As an Officer of the Legislature, I am committed to a role of independence and impartiality in conducting investigations into allegations of maladministration.

G.G. SCOTT SUTTON, *Ombudsman*

Although the past year has seen an overall increase in inquiries, jurisdictional and investigated complaints have decreased. I am convinced the level of activity and number of investigations requested are, in good part, proportionate to the economic health of the

province. With the jobless rate at a twenty-year low, there are more people working and less people seeking services from the government resulting in fewer complaints in certain areas.

Since taking office, consistently at the forefront of my priorities is a focus on education about the Office of the Ombudsman. Not only do I feel it is important to inform the general public, who use our services, it is equally important for all levels of government personnel to understand our mandate, the systemic approach undertaken with all investigations and the criteria we use for determining administrative fairness. Providing the tools for ensuring administrative fairness will assist departments, boards and agencies to be more proactive in resolving issues within their organizations and ensuring people who seek their services receive consistent and fair treatment.

I would be remiss if I did not recognize the ongoing efforts in enhancing client communication by a number of departments and agencies. Often, an extra effort in explaining why a decision was made in a clear, understandable manner negates a complaint to my Office. I am encouraged by the efforts made to explain decisions in plain language while adhering to administrative fairness standards. Much work has been done in this area with various appeal panels, and the efforts of Human Resources and Employment as well as the Maintenance Enforcement Program are to be applauded.

I am pleased at what I see as a genuine willingness by departments to right the wrongs brought to their attention in a proactive and constructive manner. An example of such cooperation is the Workers' Compensation Board (WCB). As a result of an investigation relating to Chronic Pain Syndrome, the WCB followed through on my recommendation and adjusted policies which ultimately will provide financial benefit to a number of people. The Board's response to this administrative unfairness was most gratifying.

The quality and thoroughness of investigations remains a priority, and effective monitoring and quality assurance processes are in place. People remain the focus of the operations of the Office and there are continuing efforts being made to ensure a personal link is maintained.

As I have stated in previous reports, I am committed to a non-adversarial, common sense approach to issues that come to my attention. Relationships, understanding and trust are required so that effective change can move forward. At the same time, fairness in public administration must be continually fostered and promoted. I am pleased to report that significant advancement has been made. Throughout the year, there were corrections to instances of maladministration which yielded benefits not only to individual clients, but to public bodies as well. Unfortunately, although we were able to right the wrong for many individuals who sought our assistance, there were individuals who did not feel the Office served them well when we did not find support for their particular concerns. At times, it had to be reinforced that the Office of the Ombudsman is not in existence so that favors can be dispensed, rather it is there to protect rights and ensure that government administration is dispensed in a fair and equitable manner.

I reported last year that much-needed amendments to the *Ombudsman Act* appeared to have stalled with little or no possibility of proceeding through the Legislative Assembly. This year, I am encouraged by what I see as significant progress and genuine interest in getting this all-important piece of legislation proclaimed. Pending legislation under the *Health Professions Act* as well as Ombudsman jurisdiction into Regional Health Authorities are two other pieces of legislation that will have a significant impact on activity within the Office. The involvement of the Ombudsman in the complaint resolution process continues to generate interest from other professional groups. It is readily evident the jurisdictional role of the Ombudsman will continue to expand.

Staffing levels within the Office of the Ombudsman have remained constant, yet we are prepared for anticipated new responsibilities expected with forthcoming legislation.

During this reporting period, I was fortunate to attend the International Ombudsman Institute Conference in Durban, South Africa. These conferences are held every four years and bring together Ombudsmen throughout the world for discussion and professional development. This was a first for South Africa and a significant milestone in promoting the

I am encouraged at the progress made in safeguarding fairness and in promoting and protecting the principles of natural justice in the Province of Alberta.

ombudsman concept throughout the world. Subsequent to this, the Ontario Ombudsman, in cooperation with my Office and the international ombudsman community, developed an international investigator-training module to be used worldwide. I am pleased with the involvement of my Canadian colleagues in working closely with the international ombudsman community. I was fortunate again this year to host a number of my colleagues from across Canada, as well as several international guests.

This year also brought with it a move for the Edmonton Office to a new location. The Office of the Ombudsman is now housed in the Canadian Western Bank Place in downtown Edmonton. Room for growth and better exposure should accommodate the Office for years to come.

The first three years of my term have been exciting and dynamic in terms of growth and development. Entering the fourth year of my mandate, I am encouraged at the progress made in safeguarding fairness and in promoting and protecting the principles of natural justice in the Province of Alberta. I remain committed to the principles of ombudsmanship and look forward to new challenges that are expected during the forthcoming year.

G.G. SCOTT SUTTON, *Ombudsman*

An Ombudsman's duty is to stimulate public administration to be more responsive to individual fairness.

The business plan for the Office of the Ombudsman is built upon key operational goals and initiatives. Evaluations of specific programs assess the results actually achieved relative to the established objectives. The goals and subsequent actions for the fiscal period April 1, 2000 through March 31, 2001 included:

Goal 1: Broaden and enhance the public's understanding of the Ombudsman's role through educational awareness campaigns

Historically, the Ombudsman has delivered all public presentations and served as the prime educator. This year, other staff members assisted with public presentations in order to extend the educative arm and increase the number of educational opportunities. Community outreach is always a key priority and particular attention was focused on professional groups, schools, colleges and seniors.

Additionally, the need for education within the public service also moved to the forefront. Although investigators come into daily contact with government personnel, a number of government employees do not fully understand the purpose and mandate of the Ombudsman. During this reporting period, attention was

directed toward improving administrative fairness within government through a concerted effort to utilize investigative contacts as teaching opportunities. These educational initiatives ranged from informal one-on-one sessions with government contacts to presentations to Deputy Ministers.

Technology played a key role in facilitating the educational objectives. The Office has found computer-free presentations to be particularly effective not only for the audience but also for the presenter. This involves the use of a small, powerful, lightweight projector with broad notebook/computer capability. The presentation is downloaded to a small chip which is read by the projector, thereby eliminating the need for a laptop.

Educational strategies have been developed to target the Health Professions and the Regional Health Authorities. This program is on hold pending the enactment of the legislation governing the Office of the Ombudsman's involvement as a third-party review mechanism for people with grievances against these bodies.

Goal 2: Streamline the efficiency and effectiveness of investigative operational processes to reflect best practices

Investigations are the cornerstone of the Office of the Ombudsman. Investigative credibility is gained with the knowledge that a thorough examination of all relevant facts occurred and good investigations are supported through a system of checks and balances. To ensure the Office has a continuous process of internal control, a quality assurance process was developed. This process provides an effective tool to ensure all investigations are completed in a thorough, consistent and logical manner.

Once the investigation is complete, the findings are examined to determine if there is a rational connection between the evidence presented and the conclusions reached by the government decision-maker.

The Supreme Court of Canada established that a decision which is administrative and affects the rights, privileges or interests of an individual triggers a duty of fairness. Fairness within government is a societal expectation, accountability is the vehicle used to attain such a goal. An Ombudsman's duty is to stimulate public administation to be more responsive to individual fairness.

To meet this obligation, the Ombudsman developed a detailed set of guidelines to assess whether a situation was handled in an administratively fair manner. These guidelines

are clearly defined, reliable, defendable and methodically applied to evaluate the fairness of government decisions and actions. Some departments, interested in improving the quality of their decision-making process to ensure consistently fair administrative decisions and actions, have adopted the guidelines. If "administratively fair" decisions are made at the department level, it is less likely a complaint will be sent to the Ombudsman's office.

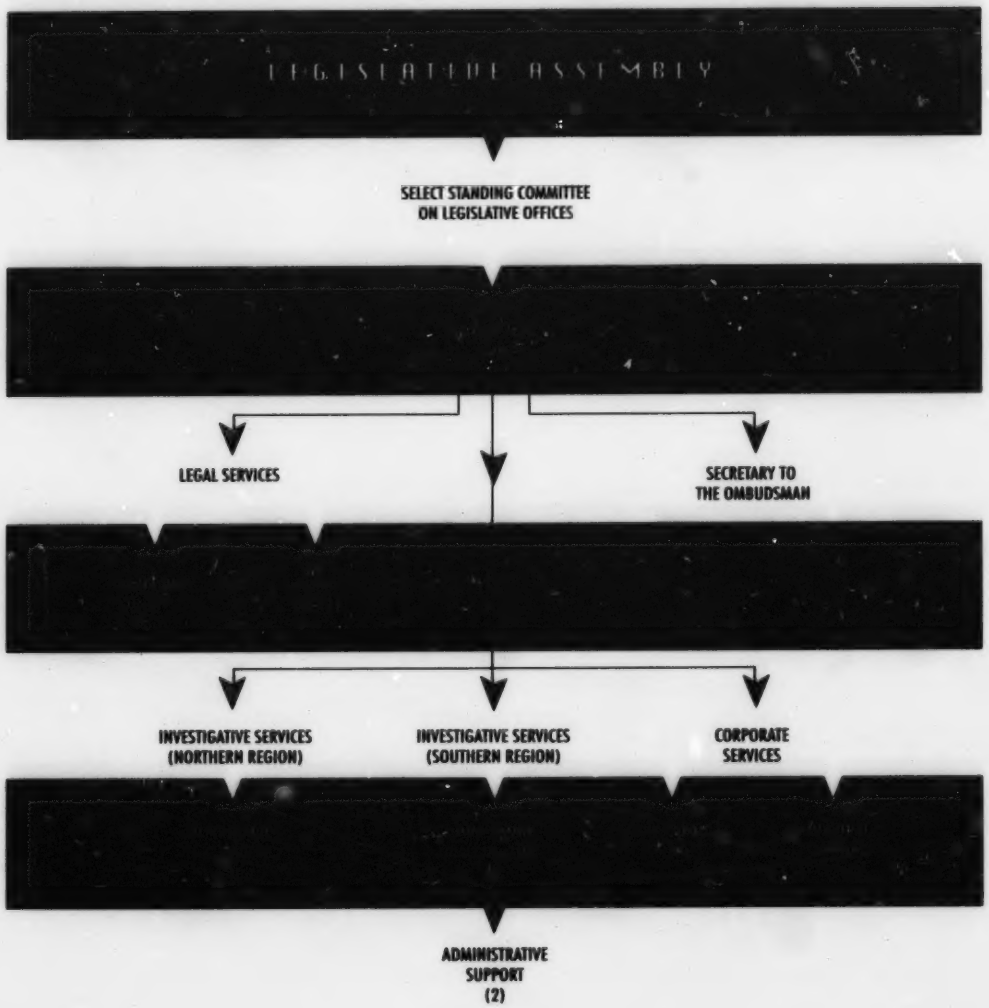
Regular in-house workshops are held so that investigators keep current with program changes and development throughout government. Guest speakers from program areas throughout government are brought in to discuss program initiatives, operational guidelines and policy decisions. This provides a more in-depth learning opportunity for the investigators and a forum whereby particular program issues can be discussed informally.

Goal 3: Establish resources and responsibilities to effectively manage the additional duties arising from legislative changes

Several pieces of forthcoming legislation will have a direct impact on the Ombudsman's Office. Anticipated amendments to the *Ombudsman Act* will provide the Ombudsman's Office with jurisdiction to investigate complaints directed toward Regional Health Authorities and delegated service providers. Under the terms of the *Health Professions Act*, the Ombudsman's Office will provide a third-party review of complaints about the administrative decisions of the 28 Health Professional groups. Other legislation such as the *Regulated Forestry Profession Act* and the *Regulated Accounting Profession Act* also involve the Ombudsman in the complaint resolution process.

The movement with some of the legislative process has proceeded much slower than anticipated. While it has been disheartening to deal with the delays, ample time has been afforded to establish the resource base to handle the additional duties associated with the legislative changes. Operationally, strategies and resource deployment have been fine-tuned for maximum efficiency and effectiveness. For example, the Office implemented an investigative case management tracking system. Technical support has been enhanced. New premises were secured to better accommodate growth and improve work flow and output efficiencies. Currently, the Office is well prepared to assume an active role once the legislative process is complete.

CORPORATE STRUCTURE



Mistakes, whether caused by managerial shortcomings, inadequate information, faulty interpretation of known facts or lack of sensitivity to personal circumstances, can and do happen.

The Ombudsman for the Province of Alberta serves as an independent, third-party review process for administrative decisions of the provincial government. As an officer of the Legislature, the Ombudsman does not report to the government but to the Alberta Legislature as a whole.

The concept of ombudsmanship, or impartially investigating complaints about unfair government actions and decisions, originated in Sweden in 1809. Finland, originally linked to Sweden, developed similar institutions. The ombudsman idea might have remained localized had it not been for the rapid expansion of government in the decades since the Depression. As a result, citizens gained access to a wide range of government services and support systems but, in doing so, have also become increasingly vulnerable to the decisions of civil servants. The growth in government has been accompanied by an increasing concern with the need to protect individual rights. The efficient and fair-minded operation of a vast administrative structure is not easily achieved. Mistakes, whether caused by managerial shortcomings, inadequate information, faulty interpretation of known facts or lack of sensitivity to personal circumstances, can and do happen. Within the setting of a large-scale organization, a mistake which appears to be trivial can have serious consequences for an individual.

In today's society, different types of ombudsmen are emerging: university ombudsmen, civic ombudsmen, banking ombudsmen and private industry ombudsmen.

While performing ombudsman-like functions, they differ from the Ombudsman of Alberta who is referred to as a "classical Ombudsman" whose duties are carried out according to legislation. The Ombudsman is not accountable to a government official thereby ensuring an independent watchdog review of government administrative actions and decisions. The American Bar Association recently defined a classical Ombudsman as a public institution which exercises fully the following functions and meets the following criteria:

- it is created by an enactment of a legislative body whether or not it is also provided for in a constitution;
- its role is to protect any person or body of persons against maladministration, violation of rights, unfairness, abuse, corruption or any injustice caused by a public authority;
- it does not receive any direction from a public authority which compromises its independence and performs its functions independently of any public authority over which jurisdiction is held;
- it has the necessary powers to investigate complaints by any person or body of persons who considers that an act done or omitted, or any decision, advice or recommendation made by any public authority within its jurisdiction has been unfair;
- it is held accountable by reporting publicly to the Legislature or other appropriate authority;
- its jurisdiction is national, regional or local;
- its jurisdiction applies to public authorities generally or is limited to one or several public authorities, or to one or several public sectors; and
- its incumbent or incumbents are appointed or elected, according to the relevant legislative enactment, for a defined period and can only be dismissed for cause by the legitimate and competent authorities.

Basically, the function of the Ombudsman is to recognize what is unfair and find a way to rectify it. The Ombudsman investigates complaints people have about unfair administrative actions or decisions made by departments, boards and agencies of the provincial government. In Alberta, this authority is derived under a provincial statute called the Ombudsman Act.

Section 11(1) of the *Ombudsman Act* is the heart of the Ombudsman's obligation and responsibility. It states:

> ***It is the function and duty of the Ombudsman to investigate any decision or recommendation made, including any recommendation made to a Minister, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in his or its personal capacity, in or by any department or agency, or by any officer, employee or member thereof in the exercise of any power or function conferred on him by any enactment.***

It is also important to understand the Ombudsman serves as a review (not appeal) mechanism of last resort. That is, the Ombudsman may only investigate a complaint after a person has exhausted all available appeals – both formal and informal. Once these appeals are completed, the complaint must be submitted in writing.

When a person sends a written complaint to the Ombudsman, a review is conducted to determine whether the complaint is jurisdictional and whether all avenues of appeal have been exhausted. If the criteria are met, opening correspondence is sent to the client and the appropriate government authority. Section 15(1) of the *Ombudsman Act* requires the Ombudsman to write to the Deputy Minister of the Ministry or the Chair of the Board or Agency, notifying him/her of an intention to investigate and the name of the investigator. A copy of the client's letter is attached so the government authority can prepare a written response.

Once a reply is received from the government authority, the investigator meets the contact person assigned by the government authority. The investigator reviews the file, meets the client, assembles the facts, conducts any necessary interviews, and develops recommendations which are submitted in writing to the Ombudsman. The final decision on whether or not to support a compliant is made by the Ombudsman.

If support exists for the complaint the Ombudsman makes recommendations to the government authority to rectify the situation. It is important to note, however, that the Ombudsman possesses influence rather than power. He cannot order the government body to take specific corrective steps. But the influence of a recommendation from the Ombudsman's Office is a power in itself. The fact the Ombudsman is involved often results in the government authority reviewing the case or revising decisions that appear unreasonable, oppressive or simply wrong under the circumstance. This influence derives from the Ombudsman's authority to investigate matters in depth and, if need be, to report the findings publicly to the Legislature.

Departments, agencies and boards are generally responsive to meaningful, common sense recommendations as the great majority of government officials are anxious to rectify an identified wrong. There is a genuine interest and desire to provide the best possible service in an administratively fair manner. A constructive and positive approach on one side is usually mirrored by a similar approach on the other side.

Minor administrative errors are sometimes discovered while conducting an investigation but the errors are not included in the complaint. The Ombudsman has asked investigators to seek an informal resolution to minor concerns with managers or department heads so that this minor process concern does not become an issue or formal recommendation, thereby eliminating much of the time-consuming paper exchange.

Primarily, the Ombudsman responds to complaints from people who feel they have been adversely affected by administrative decisions of the provincial government. Should

a systemic problem be identified as the result of numerous complaints of the same nature, the Ombudsman has the right to commence an investigation on his own initiative.

The Ombudsman may also conduct investigations at the request of the Minister of a department. Should a Minister feel there is a need for a third-party review of a specific area within his/her department, the Ombudsman is authorized to conduct such an investigation.

All investigations conducted by the Ombudsman are confidential and no part of an investigation is subject to freedom of information legislation.

The Ombudsman's Office also acts as a referral source for individuals affected by non-jurisdictional matters. Ombudsman staff provide an important link by directing them to the place or person capable of assisting with their concerns. Part of this oral complaint referral service includes directing people to exhaust their avenues of appeal within a department before they may bring a complaint to the Ombudsman.

LEGAL SERVICES

Legal Services performs or directs all necessary legal functions for the Office of the Ombudsman. This includes research, interpretation and legal opinion as it relates to both jurisdictional and investigative issues. Legal Services oversees the intake, control and analysis of all complaints received by the Office of the Ombudsman.

CORPORATE SERVICES

Corporate Services manages the Office's corporate needs by providing business planning, financial management, human resources administration, information technology management, freedom of information and protection of privacy direction, communication and publication services, records management, accommodation planning, purchasing and administration for the Office.

Statement of Operations

For the Year Ended March 31, 2001

	2001 Budget	2001 Actual	2000 Actual
Expenses			
Salaries, Wages and Employee Benefits	$ 1,302,000	$ 1,151,215	$ 1,092,303
Supplies and Services	342,100	229,056	338,902
	$ 1,644,100	$ 1,380,271	$ 1,431,205
Valuation Adjustments			
Provision for Vacation Pay		10,312	11,213
	$ 1,644,100	$ (1,390,583)	$ (1,442,418)

STATISTICAL COMMENTARY

The number of people seeking government services is inversly proportional to the health of the economy.

The current statistics represent the first 12-month period of data consistent with the fiscal year. Prior annual reports spanned the calendar year. The previous annual report was a transition year to bring the annual report in line with the government fiscal year ending March 31 and as such, the statistics covered a 15-month period. Care must be taken in comparing the data for the period April 1, 2000 through March 31, 2001 with the 1999 – 2000 annual report statistics due to the discrepancy in reporting periods.

For comparative purposes the statistics for the period January 1, 1999 through March 31, 2000 have been pro-rated in order to evaluate equal 12-month periods.

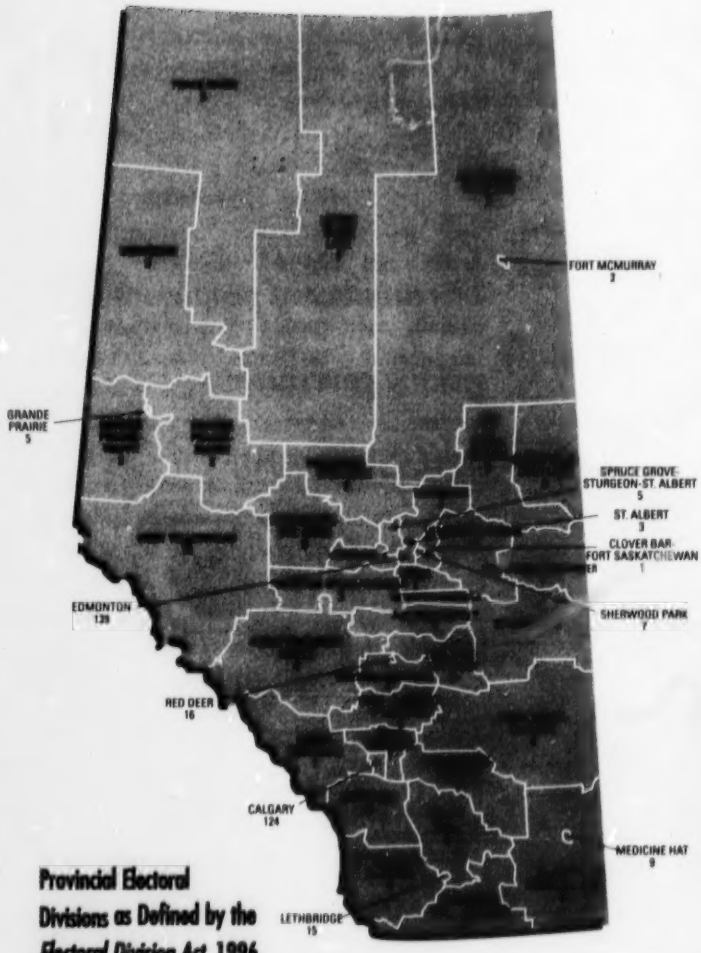
Overall the number of oral inquiries increased. Oral inquiries may be about matters that are within, or outside, the Ombudsman's jurisdiction to investigate. If an issue is outside the Ombudsman's authority, it is referred to as non-jurisdictional. During the past year, considerable growth occurred in the non-jurisdictional oral complaints while the jurisdictional oral complaints declined slightly. In part, this decrease could be attributable to recording issues associated with the newly-implemented automated case tracking system for oral and written complaints. Some growing pains were experienced and, as a result, subsequent modifications were implemented to ensure complete and accurate data collection for the ensuing year.

TABLE 1: GEOGRAPHIC LOCATION OF COMPLAINTS

Investigations occur as the result of a written letter of complaint. This year, the number of written complaints dropped by 17 percent. This may be directly linked to a prosperous economic climate. The number of people seeking government services is inversely proportional to the health of the economy. It may also be due to a natural ebb and flow of complaints against government. Statistical peaks and valleys occur from time to time and are not cause for alarm.

A supported complaint is one in which an administrative error, on the part of a government body, is identified. If a case involves a number of issues, support may exist for some aspects of the investigation but not others. Of the 316 investigations completed, 112 investigations (35 percent) resulted in some level of support. Another 169 (54 percent) found no support existed for the complaint. The ratio of supported complaints to unsupported complaints was 2:3. This means for every two supported complaints there were three unsupported complaints. The remaining 35 investigations (11 percent) were discontinued.

Many factors can affect the length of time it takes to complete an investigation. Depending upon the issues involved, the time involved may vary from a few days to in excess of a year. During the past year, the average length of time it took to complete an investigation was 184 days or about six months.

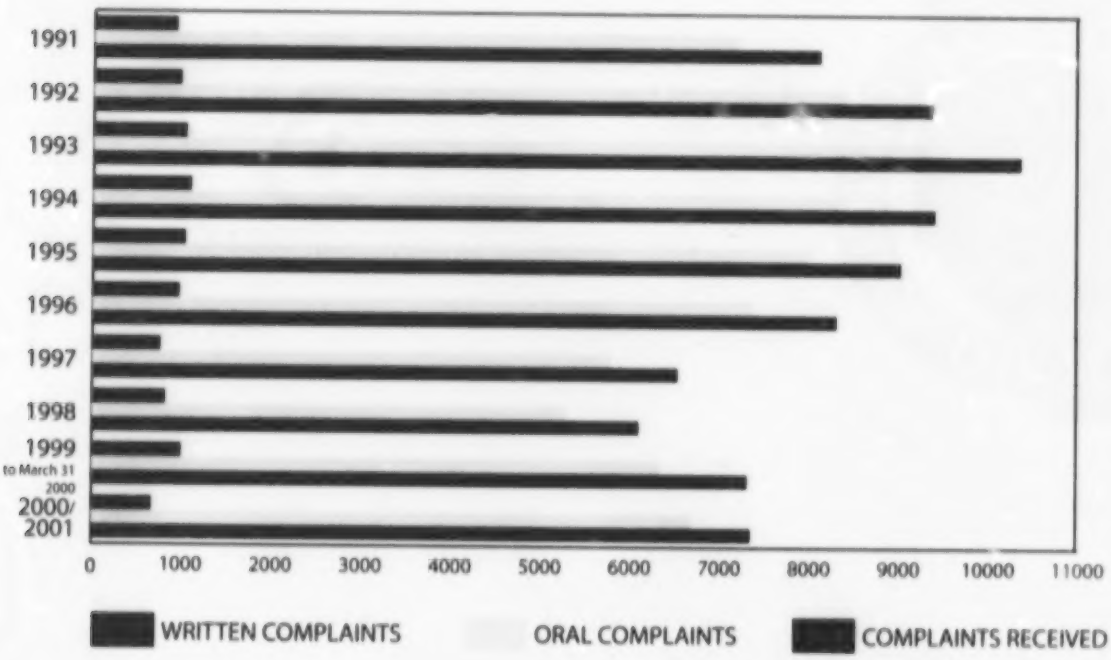


Provincial Electoral Divisions as Defined by the *Electoral Division Act*, 1996

The figures on the map refer to 480 written complaints received between April 1, 2000 and March 31, 2001, and do not include complaints that originated in provincial correctional institutions (108) and out of province (62).

TABLE 2:
ANNUAL NUMBER OF COMPLAINTS RECEIVED BY YEAR

YEAR	NUMBER OF WRITTEN COMPLAINTS	NUMBER OF ORAL COMPLAINTS	TOTAL NUMBER OF COMPLAINTS RECEIVED
1991	**916**	**7,187**	**8,103**
1992	967	8,394	9,361
1993	**1,030**	**9,319**	**10,349**
1994	1,082	8,304	9,386
1995	**1,021**	**7,986**	**9,007**
1996	956	7,334	8,290
1997	**748**	**5,771**	**6,519**
1998	805	5,280	6,085
January 1, 1999 to March 31, 2000	**983**	**6,314**	**7,297**
2000/2001	650	6,665	7,315



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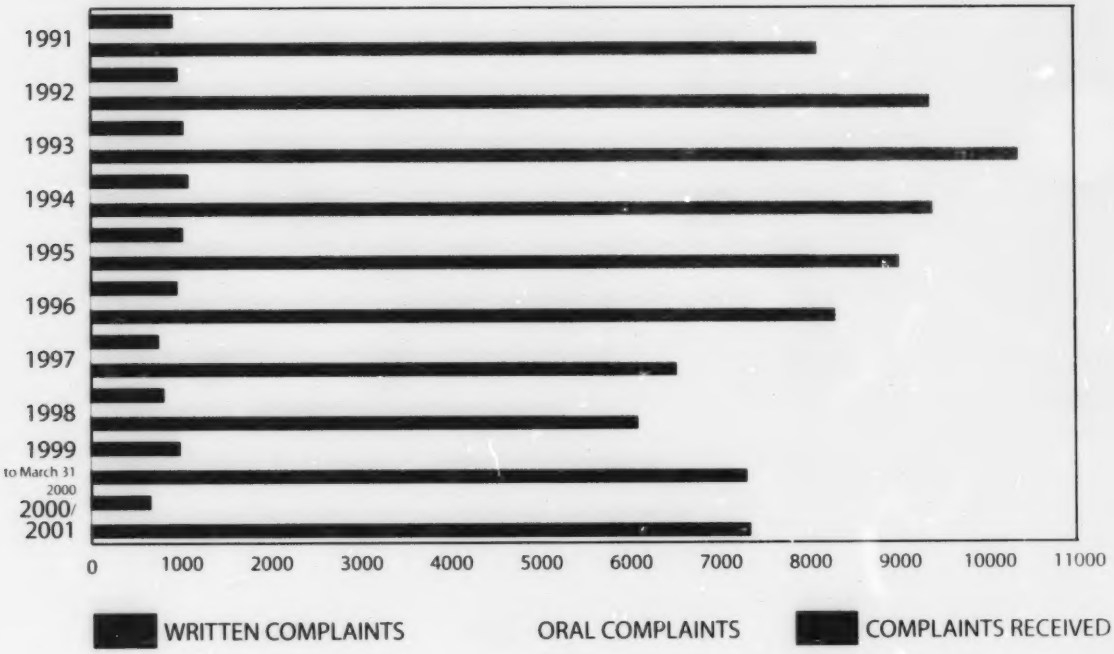


TABLE 3:
ORAL COMPLAINTS RECEIVED

Oral Complaints Received April 1, 2000 through March 31, 2001

Jurisdictional Oral Complaints (Complaints about matters that fall within the Ombudsman's jurisdiction to investigate)		1,129
Asked to Write the Ombudsman	380	
Referred to Other Remedy or Appeal	658	
Information Requests	91	
Non Jurisdictional Oral Complaints (Complaints about matters that fall outside the Ombudsman's jurisdiction to investigate)		5,536
Total Oral Complaints		**6,665**

Investigations are not conducted on the strength of an oral complaint. If the issue is within the jurisdiction of the Ombudsman, the caller is advised to write a letter requesting an investigation be undertaken. Callers who have complaints that are not within the Ombudsman's jurisdiction are advised of the appropriate contacts or steps to take to have the complaint addressed. An example of a non-jurisdictional complaint involves the administration of a private company.

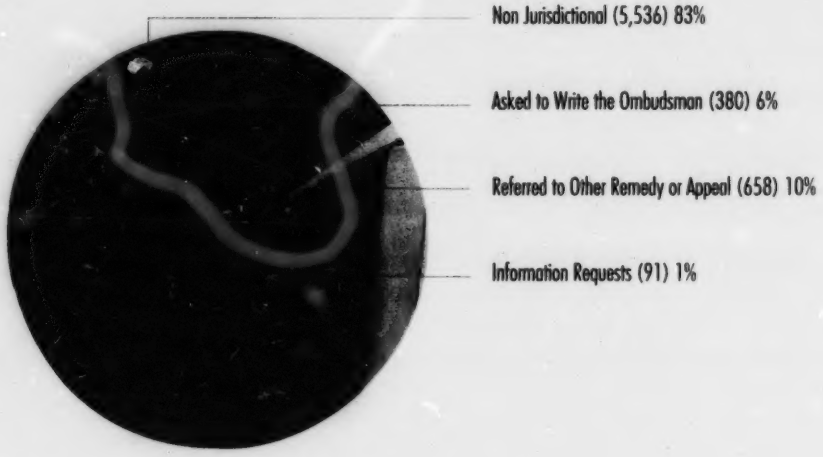
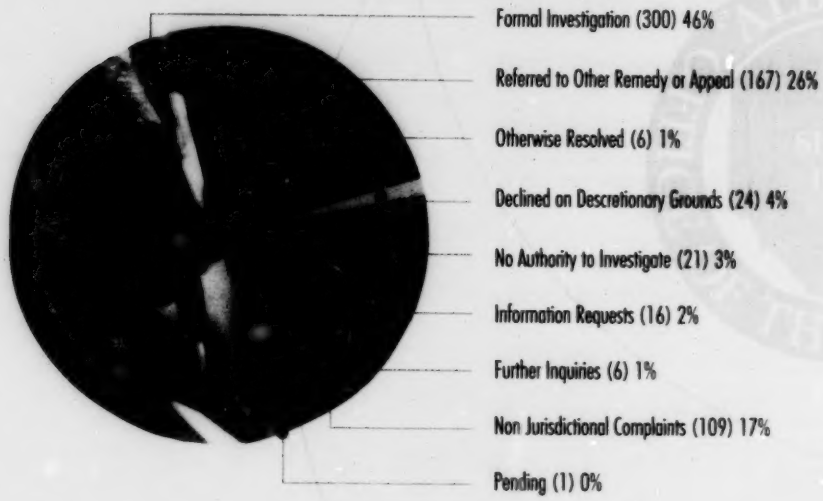

Non Jurisdictional (5,536) 83%
Asked to Write the Ombudsman (380) 6%
Referred to Other Remedy or Appeal (658) 10%
Information Requests (91) 1%

TABLE 4: WRITTEN COMPLAINTS RECEIVED

Written Complaints Received April 1, 2000 through March 31, 2001

Jurisdictional Written Complaints		541
	Formal Investigation	300
	Referred to Other Remedy or Appeal	167
	Otherwise Resolved	6
	Declined on Discretionary Grounds	24
	No Authority to Investigate	21
	Information Requests	16
	Further Inquiries	6
	Pending	1
Non Jurisdictional Written Complaints		109
Total Written Complaints		**650**


Formal Investigation (300) 46%
Referred to Other Remedy or Appeal (167) 26%
Otherwise Resolved (6) 1%
Declined on Descretionary Grounds (24) 4%
No Authority to Investigate (21) 3%
Information Requests (16) 2%
Further Inquiries (6) 1%
Non Jurisdictional Complaints (109) 17%
Pending (1) 0%

WRITTEN COMPLAINTS RECEIVED

Of the jurisdictional written complaints received, 55 percent were assigned to an investigator and 45 percent were not accepted for investigation. There are a several reasons why a written complaint may not be investigated:

Information Requests – Some written inquiries are seeking information or clarification about matters handled by the Ombudsman or by government rather than requesting an investigation.

Referred to Other Remedy or Appeal – A specific appeal of the decision or action may exist elsewhere. In each case, the nature of the appeal is explained to the client, in writing, when the investigation is declined. The client is also advised that if he or she remains dissatisfied as a result of the appeal, a letter of complaint should be sent to the Ombudsman who will consider, at that time, if an investigation is appropriate.

Otherwise Resolved – A written complaint may be authorized for a formal investigation but prior to actually commencing the investigation, events or circumstances may occur to resolve the matter. This could result from a department satisfactorily resolving the issue after the letter of complaint was submitted to the Ombudsman.

No Authority to Investigate – The matter may involve a court action, deal with legislation, or concern a client who is not personally affected by the actions of government.

Declined on Discretionary Grounds – Complaints declined on discretionary grounds by the Ombudsman include matters known to the client for more than 12 months, the subject matter of the complaint is trivial, the complaint is frivolous or vexatious or is not made in good faith, or the client does not have a sufficient personal interest in the subject matter of the complaint.

Further Inquiries – On occasion, a client does not provide sufficient information to evaluate whether or not the matter is within the Ombudsman's jurisdiction. In these instances, an investigator must conduct additional inquiries to determine the status of the complaint. This may include specific information about the nature of the complaint, the body being complained about or available appeals. Based on the findings of the investigator, the Ombudsman is able to establish the appropriate action to pursue.

TABLE 5: ACTION TAKEN ON JURISDICTIONAL FILES CLOSED APRIL 1, 2000 TO MARCH 31, 2001

Files Carried Over From Previous Years			200
Files Opened During 2000-2001			541
			741
Total Investigated			316
Supported	41		
Partially Supported	71		
Unsupported	169		
Discontinued	35		
Total Not Investigated		231	
Information Requests	13		
Referred to Other Remedy or Appeal	171		
Otherwise Resolved (without completing a full investigation)	5		
No Authority to Investigate	19		
Declined on Discretionary Grounds	23		
Files Closed as of March 31, 2001			547
Files Carried Forward to April 1, 2001			194
			741

TABLE 6:

OPERATIONAL STATISTICS BY DEPARTMENTS, BOARDS AND AGENCIES

APRIL 1, 2000 TO MARCH 31, 2001

Departments	FILES CARRIED FORWARD FROM PREVIOUS YEARS	ORAL COMPLAINTS	NEW FILES OPENED	TOTAL INVESTIGATED	Investigated: PARTIALLY SUPPORTED	SUPPORTED	UNSUPPORTED	DISCONTINUED
AGRICULTURE, FOOD & RURAL DEVELOPMENT	1	2	1	1			1	
CHILDREN'S SERVICES	14	128	46					
COMMUNITY DEVELOPMENT	4	9	7	3			2	1
ENVIRONMENT	7	22	22					
GOVERNMENT SERVICES	1	10	7	2			1	1
HEALTH & WELLNESS	9	30	9					
HUMAN RESOURCES & EMPLOYMENT	46	224	92	60	11	22	20	8
Personnel Administration Office	1		1					
INFRASTRUCTURE	3	23	9	4	1	1	2	
JUSTICE & ATTORNEY GENERAL	2	404	161					
Correctional Services Division	18							
Maintenance Enforcement Program	27							
Public Trustee								
LEARNING	9	33	16					
MUNICIPAL AFFAIRS		3	5					
RESOURCE DEVELOPMENT			1					
TREASURY	1	3	4	2	1		1	
TOTAL: Departments	**143**	**891**	**381**					
Boards & Agencies								
AGRICULTURE FINANCIAL SERVICES CORPORATION	1	2	3	2			2	
ALBERTA ENERGY & UTILITIES BOARD	2	1	1					
ALBERTA GAMING & LIQUOR COMMISSION			1					
ALBERTA HUMAN RIGHTS & CITIZENSHIP COMMISSION	3	17	9					
ALBERTA PENSIONS ADMINISTRATION	3	11	5	2			1	1
ALBERTA TREASURY BRANCHES	1	7	1					
DRIVER CONTROL BOARD		8	5	1				1
HEALTH FACILITIES REVIEW COMMITTEE			3					
LABOUR RELATIONS BOARD	2	1	1	1	1			
LAW ENFORCEMENT		1						
PERSONS WITH DEVELOPMENTAL DISABILITIES BOARDS & FOUNDATIONS			1					
SOCIAL CARE FACILITIES REVIEW COMMITTEE			2					
WORKERS' COMPENSATION BOARD	45	190	120	60			40	1
TOTAL: Boards & Agencies	**57**	**238**	**160**					
TOTAL	**200**	**1129**	**541**					

[redacted]

Not Investigated									
TOTAL NOT INVESTIGATED	INFORMATION REQUESTS	REFERRED TO OTHER REMEDY OR APPEAL	OTHERWISE RESOLVED	NO AUTHORITY TO INVESTIGATE	DECLINED ON DISCRESIONARY GROUNDS	FILES CLOSED	CARRIED FORWARD	Departments
[redacted]						1	1	**AGRICULTURE, FOOD & RURAL DEVELOPMENT**
[redacted]						42	18	CHILDREN'S SERVICES
3	1	1			1	6	5	**COMMUNITY DEVELOPMENT**
[redacted]						16	13	ENVIRONMENT
4	1	1	1	1		6	2	**GOVERNMENT SERVICES**
[redacted]						14	4	HEALTH & WELLNESS
36	1	27		3	4	104	34	**HUMAN RESOURCES & EMPLOYMENT**
[redacted]							2	Personnel Administration Office
3		2		1		7	5	**INFRASTRUCTURE**
[redacted]						174	34	JUSTICE & ATTORNEY GENERAL
								Correctional Services Division
[redacted]								Maintenance Enforcement Program
								Public Trustee
[redacted]						13	12	LEARNING
4		3		1		4	1	**MUNICIPAL AFFAIRS**
[redacted]						1		RESOURCE DEVELOPMENT
3		3				5		**TREASURY**
[redacted]						393	131	**Departments: TOTAL**
								Boards & Agencies
						2	2	**AGRICULTURE FINANCIAL SERVICES CORPORATION**
[redacted]						3		ALBERTA ENERGY & UTILITIES BOARD
1		1				1		**ALBERTA GAMING & LIQUOR COMMISSION**
[redacted]						9	3	ALBERTA HUMAN RIGHTS & CITIZENSHIP COMMISSION
3		2			1	5	3	**ALBERTA PENSIONS ADMINISTRATION**
[redacted]						2		ALBERTA TREASURY BRANCHES
3		3				4	1	**DRIVER CONTROL BOARD**
[redacted]							3	HEALTH FACILITIES REVIEW COMMITTEE
						1	2	**LABOUR RELATIONS BOARD**
[redacted]								LAW ENFORCEMENT
							1	**PERSONS WITH DEVELOPMENTAL DISABILITIES BOARDS & FOUNDATIONS**
[redacted]						1	1	SOCIAL CARE FACILITIES REVIEW COMMITTEE
40	1	3			2	128	47	**WORKERS' COMPENSATION BOARD**
[redacted]						154	63	**Boards & Agencies: TOTAL**
[redacted]						547	194	**TOTAL**

TABLE 6:

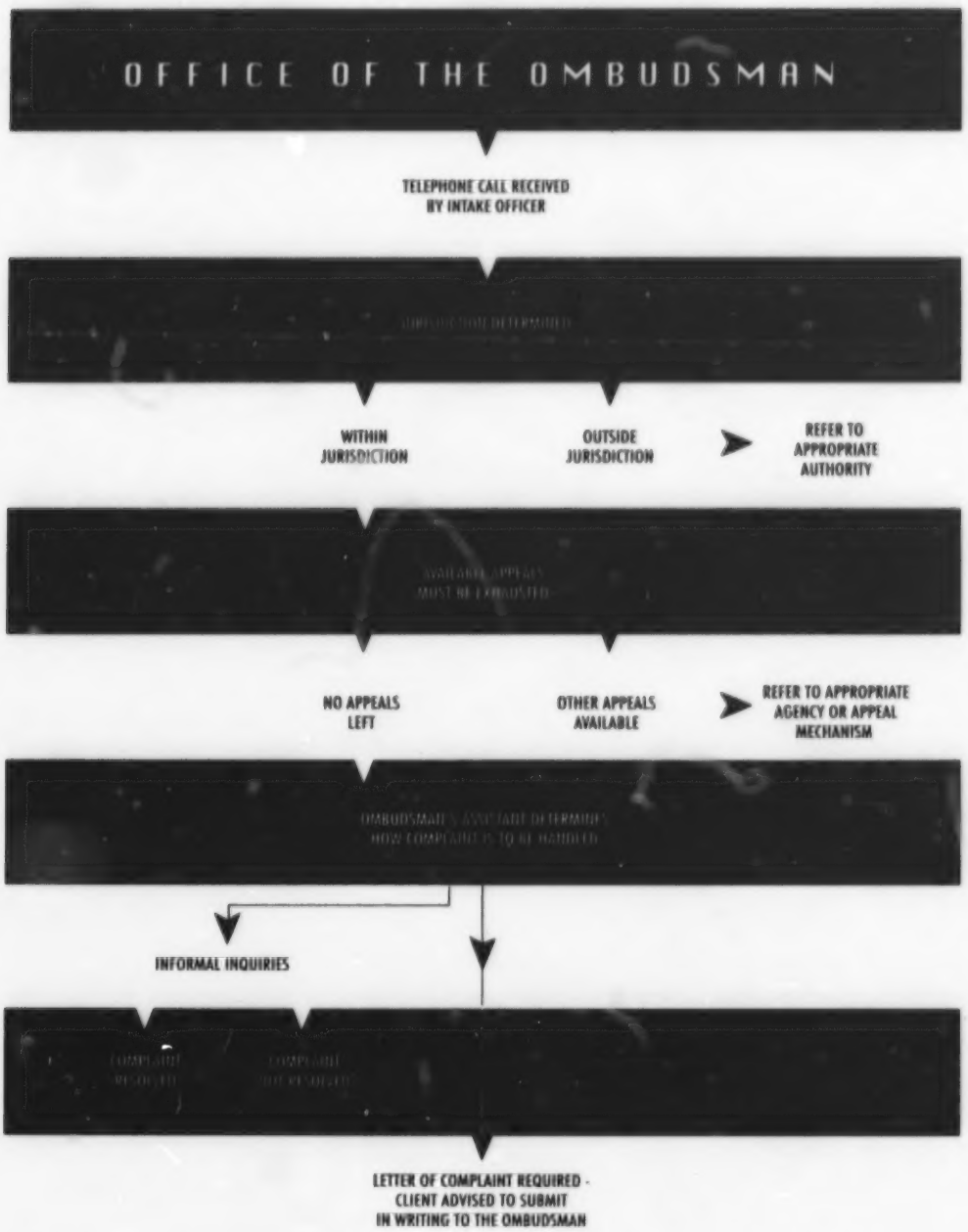
OPERATIONAL STATISTICS BY DEPARTMENTS, BOARDS AND AGENCIES

APRIL 1, 2000 TO MARCH 31, 2001

Departments	FILES CARRIED FORWARD FROM PREVIOUS YEARS	ORAL COMPLAINTS	NEW FILES OPENED	TOTAL INVESTIGATED	Investigated: SUPPORTED	PARTIALLY SUPPORTED	UNSUPPORTED	DISCONTINUED
AGRICULTURE, FOOD & RURAL DEVELOPMENT	1	2	1	1			1	
CHILDREN'S SERVICES	14	128	46	18	3	4	8	3
COMMUNITY DEVELOPMENT	4	9	7	3			2	1
ENVIRONMENT	7	22	22	7			1	4	2
GOVERNMENT SERVICES	1	10	7	2			1	1
HEALTH & WELLNESS	9	30	9	9			7	2
HUMAN RESOURCES & EMPLOYMENT	46	224	92	69	11	22	28	8
Personnel Administration Office	1		1					
INFRASTRUCTURE	3	23	9	4	1	1	2	
JUSTICE & ATTORNEY GENERAL	2	404	161	118	15	18	69	14
Correctional Services Division	18							
Maintenance Enforcement Program	27							
Public Trustee								
LEARNING	9	33	16	3	1		1	1
MUNICIPAL AFFAIRS		3	5					
RESOURCE DEVELOPMENT			1	1			1	
TREASURY	1	3	4	2	1		1	
TOTAL: Departments	**143**	**891**	**381**	**237**	**34**	**47**	**118**	**28**
Boards & Agencies								
AGRICULTURE FINANCIAL SERVICES CORPORATION	1	2	3	2			2	
ALBERTA ENERGY & UTILITIES BOARD	2	1	1	3		1	2	
ALBERTA GAMING & LIQUOR COMMISSION			1					
ALBERTA HUMAN RIGHTS & CITIZENSHIP COMMISSION	3	17	9	3	1		2	
ALBERTA PENSIONS ADMINISTRATION	3	11	5	2		1	1	
ALBERTA TREASURY BRANCHES	1	7	1	1			1	
DRIVER CONTROL BOARD		8	5	1				1
HEALTH FACILITIES REVIEW COMMITTEE			3					
LABOUR RELATIONS BOARD	2	1	1	1	1			
LAW ENFORCEMENT		1						
PERSONS WITH DEVELOPMENTAL DISABILITIES BOARDS & FOUNDATIONS			1					
SOCIAL CARE FACILITIES REVIEW COMMITTEE			2					
WORKERS' COMPENSATION BOARD	45	190	128	66	5	12	43	6
TOTAL: Boards & Agencies	**57**	**238**	**160**	**79**	**7**	**13**	**49**	**7**
TOTAL	**200**	**1129**	**541**	**316**	**41**	**60**	**167**	**35**

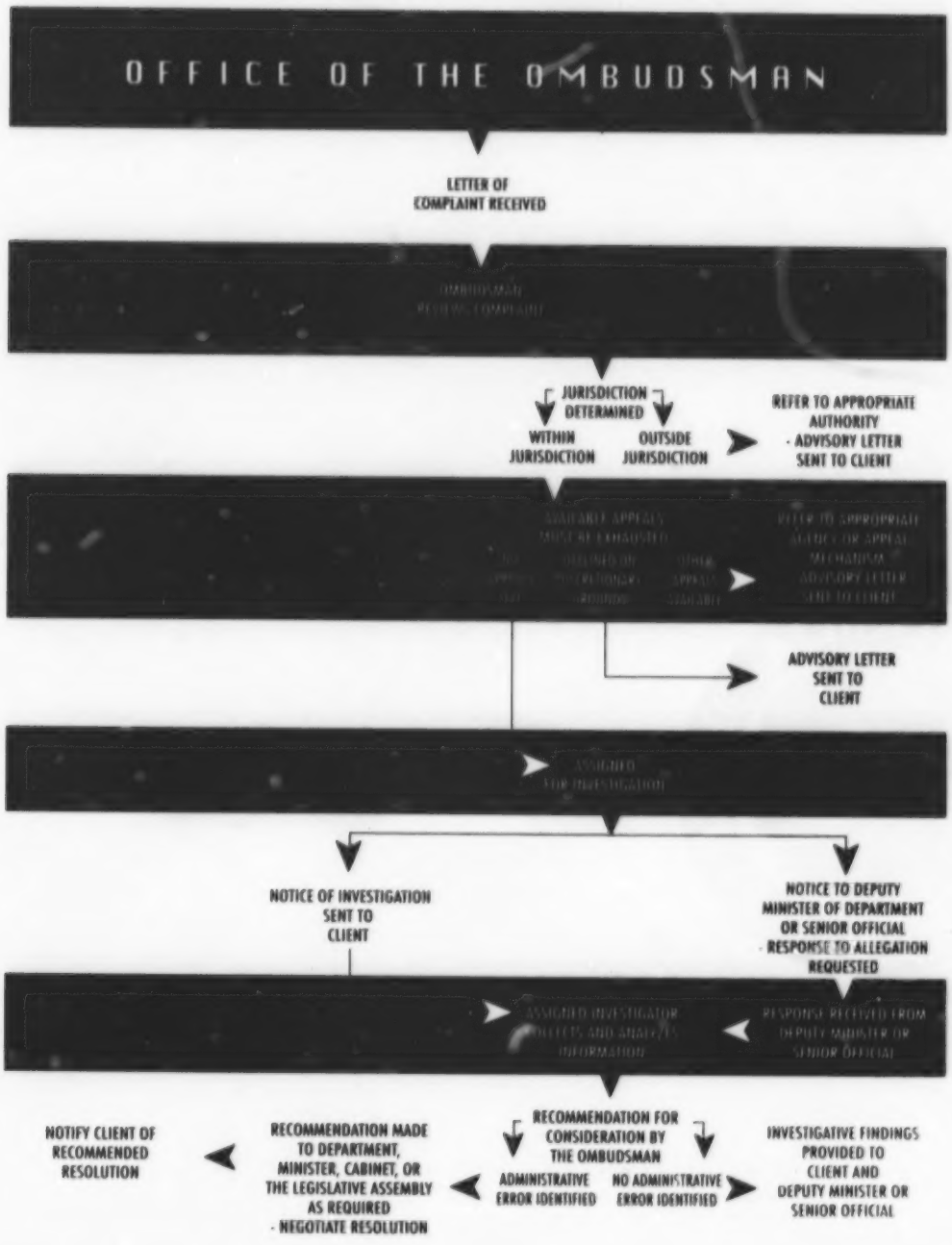
Not Investigated									
TOTAL NOT INVESTIGATED	INFORMATION REQUESTS	REFERRED TO OTHER REMEDY OR APPEAL	OTHERWISE RESOLVED	NO AUTHORITY TO INVESTIGATE	DECLINED ON DISCRESIONARY GROUNDS	FILES CLOSED	CARRIED FORWARD	Departments
						1	1	AGRICULTURE, FOOD & RURAL DEVELOPMENT
24	2	17		4	1	42	18	CHILDREN'S SERVICES
3	1	1			1	6	5	COMMUNITY DEVELOPMENT
9	3	4			2	16	13	ENVIRONMENT
4	1	1	1	1		6	2	GOVERNMENT SERVICES
8	1	3			1	14	4	HEALTH & WELLNESS
35	1	27		3	4	104	34	HUMAN RESOURCES & EMPLOYMENT
							2	Personnel Administration Office
3		2		1		7	5	INFRASTRUCTURE
66	1	42	3	6	4	174	34	JUSTICE & ATTORNEY GENERAL
								Correctional Services Division
								Maintenance Enforcement Program
								Public Trustee
10		9		1		13	12	LEARNING
4		3		1		4	1	MUNICIPAL AFFAIRS
						1		RESOURCE DEVELOPMENT
3		3				5		TREASURY
166	10	112	4	17	13	393	131	Departments: TOTAL
								Boards & Agencies
						2	2	AGRICULTURE FINANCIAL SERVICES CORPORATION
						3		ALBERTA ENERGY & UTILITIES BOARD
1		1				1		ALBERTA GAMING & LIQUOR COMMISSION
6	1	3			2	9	3	ALBERTA HUMAN RIGHTS & CITIZENSHIP COMMISSION
3		2			1	5	3	ALBERTA PENSIONS ADMINISTRATION
1		1				2		ALBERTA TREASURY BRANCHES
3		3				4	1	DRIVER CONTROL BOARD
							3	HEALTH FACILITIES REVIEW COMMITTEE
						1	2	LABOUR RELATIONS BOARD
								LAW ENFORCEMENT
							1	PERSONS WITH DEVELOPMENTAL DISABILITIES BOARDS & FOUNDATIONS
1		1				1	1	SOCIAL CARE FACILITIES REVIEW COMMITTEE
60	2	48	1	2	7	126	47	WORKERS' COMPENSATION BOARD
						154	63	Boards & Agencies: TOTAL
						547	194	TOTAL

PROCESSING ORAL COMPLAINTS


OFFICE OF THE OMBUDSMAN
TELEPHONE CALL RECEIVED BY INTAKE OFFICER
WITHIN JURISDICTION
OUTSIDE JURISDICTION
REFER TO APPROPRIATE AUTHORITY
NO APPEALS LEFT
OTHER APPEALS AVAILABLE
REFER TO APPROPRIATE AGENCY OR APPEAL MECHANISM
INFORMAL INQUIRIES
LETTER OF COMPLAINT REQUIRED - CLIENT ADVISED TO SUBMIT IN WRITING TO THE OMBUDSMAN

The flow charts illustrate the typical manner in which oral and written complaints are handled by the Office of the Ombudsman. Exceptions may occur at the discretion and direction of the Ombudsman.

PROCESSING WRITTEN COMPLAINTS


OFFICE OF THE OMBUDSMAN
LETTER OF COMPLAINT RECEIVED
JURISDICTION DETERMINED
WITHIN JURISDICTION
OUTSIDE JURISDICTION
REFER TO APPROPRIATE AUTHORITY
- ADVISORY LETTER SENT TO CLIENT
ADVISORY LETTER SENT TO CLIENT
NOTICE OF INVESTIGATION SENT TO CLIENT
NOTICE TO DEPUTY MINISTER OF DEPARTMENT OR SENIOR OFFICIAL
- RESPONSE TO ALLEGATION REQUESTED
RECOMMENDATION FOR CONSIDERATION BY THE OMBUDSMAN
ADMINISTRATIVE ERROR IDENTIFIED
NO ADMINISTRATIVE ERROR IDENTIFIED
INVESTIGATIVE FINDINGS PROVIDED TO CLIENT AND DEPUTY MINISTER OR SENIOR OFFICIAL
RECOMMENDATION MADE TO DEPARTMENT, MINISTER, CABINET, OR THE LEGISLATIVE ASSEMBLY AS REQUIRED
- NEGOTIATE RESOLUTION
NOTIFY CLIENT OF RECOMMENDED RESOLUTION

The client was very appreciative of the personal effort by the investigator to assist the worker in understanding the Ministry's decision.

Maintenance Garnishee

The client wrote to the Ombudsman complaining about the Maintenance Enforcement Program's (MEP) inaction, lack of communication, and delay in implementation of a wage garnishee.

The Ombudsman's investigation determined MEP failed to provide a clear explanation of why it could not enforce the client's Interim Family Court Order. It also failed to implement a wage garnishee in a timely way and respond appropriately to the client's correspondence. MEP wrote a letter of apology to the client and revised the form letter sent to creditors registering Provincial Court orders.

Ombudsman Process

A couple wrote the Ombudsman numerous letters outlining their frustration regarding issues currently before the Family Court and the Child and Family Services Authority (CFSA).

Although the complaints were not within the Ombudsman's jurisdiction, an investigator visited their residence to explain jurisdictional issues regarding matters before the courts. The investigator also explained the process of appeals that must be followed before the Ombudsman can investigate complaints

against CFSA. The couple was told that if they still felt they had been treated unfairly after all appeals were completed, they could write the Ombudsman again and he would consider undertaking an investigation at that time.

Wood Wastage Penalty

The Ombudsman conducted an investigation into a complaint concerning the Ministry of Environment, Forest Management Division. The clients believed they had been unfairly charged a wood wastage penalty and license of occupation rental on a deciduous timber permit.

The Ombudsman's investigation determined the Ministry received legal advice that it could not collect the penalty. The penalty was not considered a debt owed to the Crown, as there was no Court Judgment in favour of the Crown. As well, the Crown failed to commence action to recover the penalty before the two-year limitation expired as set out in the *Limitation of Actions Act.* It was the opinion of the Ombudsman that with knowledge of this legal advice, it would be administratively unfair for the Ministry to continue to attempt to collect the penalty from the clients. The Ombudsman recommended the Ministry write to the clients advising that no further action would be taken to recover the penalty.

The investigation also established that the Ministry did not have policy or direction for staff who impose penalties. It was recommended the Ministry establish a system to notify staff when the two-year limitation period was close so they had the option of pursuing a judgment to collect the penalties. These recommendations were accepted by the Ministry.

WCB Award

An injured worker complained the compensation rate established by the Workers' Compensation Board following a work-related accident was incorrect and, as a result, the amount of the 100% Permanent Partial Disability award was incorrect.

Two issues were ordered for investigation: the calculation of the worker's compensation rate and the rationale provided by the Appeals Commission for refusing to reconsider the Board's decision. Upon review, the Appeals Commission agreed to refer the worker's request to a new hearing panel. On that basis, the Ombudsman discontinued both investigations.

Separation Payment

A worker complained the Ministry of Community Development had unfairly denied consideration for a separation payment.

In order to receive a separation payment, the worker's position must be abolished upon departure. As the position was not abolished in this case, the Ombudsman was unable to support the complaint. However, the investigation identified four administrative errors in the Ministry's handling of this file.

The client wrote to thank the Ombudsman for the time and effort spent in resolving this matter. The client was very appreciative of the personal effort by the investigator to assist the worker in understanding the Ministry's decision.

Highway Twinning

A client complained about inadequate response by the Transportation & Utilities division of the Ministry of Infrastructure to requests for an appeal of the decision regarding location for a highway twinning project.

The Ombudsman supported the complaint as evidence generated by the investigation identified administrative errors in the handling of the requests. This included not responding to the client's letters in a timely manner and not answering specific questions. The Ministry satisfactorily resolved the complaint by sending a letter of apology and a letter clarifying the issues to the client.

Child Support Payments

A client complained the Maintenance Enforcement Program (MEP) had improperly calculated arrears on an account. The client felt the conditions of the divorce agreement regarding the child of the marriage were no longer applicable. The client also believed the maintenance obligations should be terminated as the child had reached the age of 18 and was no longer attending school.

The Ombudsman was able to support the complaint as the investigation determined the child had been out of school and independent for longer than the time period stipulated in the court order. As a result of this investigation, MEP cancelled the arrears owed by the client.

WCB Claim

A worker complained the Workers' Compensation Board (WCB) denied ongoing responsibility for neck, shoulder, low back and psychological problems plus left arm Chronic Pain Syndrome and cost of medication.

The evidence generated by the Ombudsman's investigation indicated the WCB had properly applied policy and legislation in determining it had no ongoing responsibility for the worker's medical conditions. There was no medical evidence to substantiate the current medical problems could be directly related to the

compensable accident several years earlier. As there were no administrative or procedural errors identified, the Ombudsman was unable to support the complaint.

Terminated Employee

A provincial government wage employee complained of unfair employment termination alleging unknown performance concerns.

The complaint was supported by the Ombudsman because the investigation revealed the process leading up to the termination was administratively unfair. It did not follow the principles of performance management to which a civil service employee is entitled. It was also noted the grievance hearing was conducted in an administratively unfair manner.

To resolve the complaint the Ministry offered fair and reasonable compensation for the termination and removed all references to performance concerns from the employee's personnel file. The Ministry also agreed to deal with concerns arising from the grievance process and relay observations from the Ombudsman's investigation to managers and supervisors to avoid a reoccurrence in the future.

Widow's Pension

The client complained of being unfairly assessed an overpayment under the Widows' Pension Program (WPP) as a result of Registered Retirement Savings Program (RRSP) income received prior to the date of eligibility for the WPP. The client also felt the Appeal Panel did not understand WPP policies and had acted unfairly by ignoring written submissions.

Subsequent to the Ombudsman's investigation, the Ministry made a determination to adjudicate all future WPP pensions on the basis that RRSP's cashed prior to applying for the pension were assets and not income. The change in policy would not be retroactive but since the client's case was before the Appeal Panel at that time, it was agreed the application would be considered on the basis of the new policy.

As this gave the client an avenue of resolution, the Ombudsman discontinued the investigation.

Inmate Work Duties

An inmate complained the Ministry of Justice, Community Corrections and Release Program, failed to accommodate the light duty work restrictions indicated on the inmate's Temporary Absence Permit while at a

Provincial Attendance Centre completing community service work under the House Arrest Program.

The investigation revealed the Centre erred by not providing the inmate with light duties as a result of a clerical error and lack of staff training. The Centre also erred administratively by neglecting to file an Employer's Report of Accident with the Workers' Compensation Board (WCB) to cover the injury suffered by the inmate.

The Ministry resolved this matter satisfactorily by implementing training for staff and by providing staff with written direction pertaining to inmates who have been assessed by their doctors to be fit for light duties only. The Centre also filed an employer's report with the WCB to cover the injury suffered by the inmate. The Ombudsman was able to fully support the complaint and assistance was provided to the client.

Benefits Denied

A client complained about being unfairly denied Assured Income for the Severely Handicapped (AISH) benefits in spite of medical reports supporting eligibility.

The Ombudsman found the Ministry of Human Resources and Employment made a proper and reasonable decision to deny AISH benefits according to legislation and policy. However, as there were several administrative errors identified during the investigation, the Ombudsman partially supported the complaint. These errors included using an outdated definition of "severe handicap" and supplying wrong and improper information to the client. As well, the Appeal Panel ruled to uphold the decision to deny benefits when it should have ruled it did not have jurisdiction to hear the appeal.

The file was closed when the Ministry took action to resolve the administrative errors.

Undue Delay

The Ombudsman received a complaint charging unreasonable delay, administrative error, oversight and negligence on the part of the Alberta Human Rights and Citizenship Commission regarding a sexual harassment complaint. It was also alleged the Commission improperly closed the file and refused to proceed with a Commission Panel hearing based on the client's written submission.

The investigation identified errors in the way the complaint was handled. As a result, the Ombudsman made several recommendations

to the Commission which were accepted. The client received a letter apologizing for the delay in handling the complaint and a second letter to the client contained an explanation for the denial of a documentary review. The Commission also established measures and standards for monitoring files to avoid lengthy delays in processing future complaints.

Apprehension of Children

A client complained about the conduct and actions of Child Welfare workers when apprehending the client's children.

During the investigation, various policies and procedures were reviewed in conjunction with the *Child Welfare Act.* It was determined the Child Welfare workers did not supercede their authority and there was no evidence they acted in an inappropriate manner. The Ombudsman was unable to support the complaint.

Pension Coordination

After taking early retirement, a former provincial government employee complained the Alberta Pensions Administration (APA) had failed to explain the lifetime repayment of pension benefits after coordinating a pension with old age security benefits. The client also complained the APA did not respond to correspondence.

The Ombudsman found there was an administrative error in not responding to correspondence and partially supported the complaint. To remedy the error, the APA wrote the client and apologized for the delay in responding to correspondence and provided a detailed explanation of pension coordination. The client was also informed of the right to appeal.

Parole Application

An inmate in an Alberta Correctional Centre complained of a failure by Correctional Services to properly transmit a federal parole application to the federal parole authorities.

The investigation determined the Centre erred administratively when it failed to send the inmate's application in a timely manner. The error was corrected when the Centre developed a new Standing Operating Procedure. On the Ombudsman's recommendation, the Centre also contacted federal authorities to advise them of the circumstances and requested the inmate's application be given priority due to the delay between the time the application was completed by the inmate and received by the federal parole authorities.